DISTRICT OF COLUMBIA STATEHOOD CONSTITUTIONAL CONVENTION

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Washington, D.C.

The plenary session was convened at 4:40 p.m. in Convention Hall, 9th floor, 10th and E Streets, N.W., Washington, D.C., Janette H. Harris, presiding as Chairperson.

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P R O C E E D I N G S

MS. HARRIS: We are going to begin listening to Delegate Mildred Lockridge of the Committee on Education and we would like her to begin reading this article into the record.

Delegate Lockridge.

MS. LOCKRIDGE: Thank you, Madame Chair.

Fellow delegates, on behalf of the Committee on Education I will read to you the article on education being presented to you tonight for adoption.

"Section 1. Provision for Education. A. Recognizing the distinct and unique heritage of its diversified citizenry, the State of _____ is committed in its educational goals to the preservation of cultural integrity and the promotion of equality of opportunity for every individual to develop to her or his full potential and so provides herein.

"B. The State shall guarantee equality of educational opportunity in the public schools and other public educational institutions to all residents regardless of race, sex, religion, color, national origin, handicapping condition and other individual characteristics and may be sued for default of this guarantee. The Legislature shall provide penalties for any individual who violates this guarantee.

"Section 2. Primary and Secondary Education. A. The State shall provide for the establishment, financing and control of a uniform, high quality, statewide system of free public primary and secondary schools including specialized schools for all residents." Would you please put a period after "residents" and cross out "up to age 18".

"Education, to uniform standards, shall be compulsory for all residents between the ages of 6 and 18, except those who have already completed all secondary school requirements. All public schools shall be free of sectarian roreligious instruction. Children of Diplomatic Corps members may attend public schools.

"B. The general control and supervision of the public school system shall be vested in a nine-member State Board of Education, eight elected from separate electoral districts of equal population and one enfranchised student representative who shall be enrolled in public senior high school and elected by that population. The duties, qualifications, compensation, term of office, manner of election of the State Board of Education and electoral district boundaries shall be provided by law.

"C. The State Supertintendent of Public Instruction shall be appointed by the State Board of Education. The State

Board of Education shall prescribe the length of term, compensation, powers, and duties of the State Superintendent of Public Instruction.

"D. Each fiscal period the Legislature shall appropriate a total sum for the public primary and secondary educational system, but not in a line item manner. The expenditures of this money shall be under the exclusive control of the State Board of Education.

"E. Any property titled in the District of Columbia or in the State of _____ and used by or acquired for the use of the Board of Education of the District of Columbia or of the State Board of Education shall henceforth be deemed to be titled in the name of the State Board of Education in (sic) the State of _____.

"F. The State Board of Education shall control the sale, lease and rental of its buildings and lands with the advice and consent of the Legislature.

"G. The State Board of Education shall promote community involvement in the public schools as it may deem appropriate.

"H. Public libraries and such other institutions may be utilized to enhance public school programs relating to the history and culture of the State.

"I. All private elementary and secondary schools shall be required to meet the same standards for instructors, instruction and student achievement as may be imposed by the State Board of Education upon the public schools.

"J. All laws and regulations regarding working conditions, environment, health, safety and the rights of employees applicable to premises and to private businesses shall be applicable without exception to all private schools and their employees, except only that a denominational or religious school may apply a religious test for employment as a teacher, but not for other positions.

"Section 3. Higher Education. The State shall provide for the establishment, financing and control of a public system of higher education which shall constitute a public trust and shall consist of the State University and such other institutions of higher learning as may be established by law, supervised by the Board of Higher Education which shall be a body corporate. The Board of Higher Education shall have (1) general supervision of all state institutions of higher instruction; (2) direction and control of all funds and appropriations; (3) other such duties and powers as prescribed by law.

"B. The Board shall consist of: (1) eight voting

members appointed by the Governor with the advice and consent of the Legislature one from each State Board of Education electoral district. Their term shall be six years and shall be staggered.

"(2) three voting members: (a) one representative selected by the body of alumae and alumni; (b) one graduate student selected by the total graduate student body; (c) one undergraduate student selected by the total undergraduate student body;

"(3) three ex-officio members without the right to vote: the Governor, the Speaker of the Legislature, and the Superintendent of Public Instruction.

"C. Members of the Board of Higher Education shall (1) receive no salary but may be reimbursed for expenses incurred in the discharge of their duties. (2) shall not be removed except for cause and by due process.

"Section 4. Restrictions on Financing of Non-Public Education. A. The State shall provide no financial support, either directly or indirectly to any sectarian, denominational or religious school, or to any pre-elementary, elementary, secondary, or post-secondary school which is not owned and exclusively controlled by the State.

"B. Except as provided in C below, the State shall

provide no payment, credit, tax benefit, exemption or deduction, tuition voucher or subsidy, grant or loan of public monies or property, in any way, whether directly or indirectly:

"1. To support the attendance of any student at any pre-elementary, elementary, secondary school, or other location or institution at those levels, which is not owned and exclusively operated by the State; or

"2. To pay the salary of any employee at any such non-public school, location, or institution where instruction is offered in whole or in part to non-public school students at any level;

"C. The State may pay the private school tuition of individual students suffering from handicaps which render them unable to receive an education at the public schools.

"D. Nothing in this section shall restrict the acceptance of funds from the Government of the United States, nor the expenditure of those funds in accordance with the terms under which they were accepted."

Madame Chair, that ends the reading of the article on education.

MS. HARRIS: Thank you very much, Delegate Lockridge.

The floor is now open for questions on the article on education. Delegate Bruning.

MR. BRUNING: Thank you for a well-written short report which I appreciate. I was wondering on line 10 on the first page, the word "guarantee", does that have legal force? "The State shall guarantee equality" -- is that enforceable? That would be then enforceable in court?

MS. SIMMONS: The guarantee as indicated in this, we have a whole set of legal history, both in this jurisdiction as the District of Columbia -- for example the Waddy decree and the Skellyright (Phonetic) decree, all of which preceded the kind of social legislation and court decrees that occurred in terms of the nation in the seventies. So when we talk about guarantee equality, we're talking about that same concept, that if you feel you are denied equal opportunity, the burden of proof is not on the individual but rather on the institution to prove that they did indeed afford equal opportunity.

MR. KAMENY: I note that the article itself in two different ways provides for litigation, in the one sense civil and the other sense criminal, for default of violation of this guarantee and the use of the word "guarantee" simply strengthens the whole concept that is involved here.

MR. BRUNING: On page 2, line 7, there is a term "high quality". I know in a number of states there are

different -- as your report indicates, there are different -- whether it's fair and equal or I don't know the West Virginia language. Is there a legal standing or legal precedent or understanding of what high quality means or some of those other terms? I know West Virginia, for example, just got overturned on schools on the grounds that they didn't meet their task..

MS. LOCKRIDGE: If you will direct your attention, Delegate Bruning, to page 7 of our report that deals with specific language.

MR. BRUNING: Right; right. So then there may be some precedents of other states having been judged whether they fit the criteria of high quality?

MS. LOCKRIDGE: The delegate who can respond to that has just come up. Delegate Love, would you respond to that.

MR. LOVE: The particular words were "thorough" and "efficient" and those are the words that have been most litigated throughout the country and very importantly in a New Jersey decision. But it was our feeling that high quality is actually a clearer phrase than thorough and efficient. And, although it is not received in much litigation history, in reality it will not require very much litigation. It is clear in our report, we mean the term "high quality" to be

very similar to other types of phrases such as "thorough and efficient". So by having legislative history reflect that, we think it will be clear and we think the term "high quality" is actually a much clearer phrase than "thorough and efficient".

MR. BRUNING: And on page 3, Section E, does that change any practice that is now -- or would that change a practice that is now a non-practice?

MR. LOVE: Which page, which line?

MR. BRUNING: Page 3, Section E, the acquisition of property.

MS. FEELY: That specific section is the result of our hearing when Delegate Hilda Mason presented language to the committee. Based on her experience on the School Board and her experiences as Chair of the Education Committee on the Council, Delegate Mason felt there was a need to have very strong language that would allow the new State Board to take title to property.

MS. HARRIS: Delegate Lockridge, on that same section when you read line 19, page 3, after "education" did you read "Education in the State of"?

MS. LOCKRIDGE: Yes, I did.

MS. HARRIS: Okay. Then we should make that word change.

MS. LOCKRIDGE: I'm sorry. I should have said "of".

MR. BRUNING: I think just one last question, also on page 3,"but not in a line item manner", or the expenditures or the listings aren't listed out?

MS. FEELY: The intent of that language is as far as possible to prevent line item vetoes by the Legislature and by the Executive.

MR. BRUNING: One other question. This is a question concerning essentially all the requirements that apply to public schools would also apply to public schools -- I mean public schools would apply to private in terms of employment, wages, health, et cetera. Does that lead to any strange contradictions on unemployment or social security or maternity benefits?

MR. KAMENY: I'm sorry; I apologize. My attention strayed.

MS. HARRIS: Excuse me a minute please. Would the delegates please lower your voices?

MR. BRUNING: I was just asking: Could that lead to a situation in which, for instance, a religious school run by nuns would have to put money aside for maternity benefits?

MR. KAMENY: The intent of this was to ensure -- no, I don't see that conditions of that kind would be prohibited

here. What it was intended to do is there is a growing tendency, if you are aware of what's going on in the country to invoke, especially the magic word "religion", to exempt the institutions from any governmental control on anything whatsoever, including fire laws, employment, minimum wages -- everything and anything else. And this is intended to address that and ensure that they are in fact subjected to the same kinds of controls that all other businesses and in some cases the control addresses the premises, like a building code, that all other premises and businesses are, with the one single exception that we made with respect to a test for a teacher.

MR. BRUNING: Thank you very much.

MS. LOCKRIDGE: Delegate Johnson.

MS. JOHNSON: Delegate Johnson, on line 11 -- in line 10 and 11, school age is up to 18?

MS. LOCKRIDGE: Yes.

MS. JOHNSON: That is different from what our call for school age is presently.

MS. LOCKRIDGE: The compulsory school age now is 16.

MS. JOHNSON: So you are changing it?

MS. LOCKRIDGE: Yes, we are.

MS. JOHNSON: Can you give me your rationale?

MS. FEELY: There were several things that we discussed in that regard. While we recognized the fact that some young people finish their requirements before age 16 and we recognized that some finish at 17, there are some that don't finish until 18.

We also took into consideration the labor market situation as we see it presently and we do not know what else may be happening in the future, but we were concerned about young people not gainfully using their time. So we felt with a new technology that is available, it may very well be that schools will add some of the new technology and, in order for students to get as much as possible of that, they would have to be in the schools to get it. So we thought we needed to increase the age, the school leaving age or the mandatory compulsory school age.

MS. LOCKRIDGE: Delegate Simmons, you wanted to speak to that point.

MS. SIMMONS: All I wanted to indicate is what Delegate Feely indicates does allow for the fact that youngsters may complete what is called the K through 12 before age 18, but we discussed and had an extensive debate about a 13 and 14 year which leads to an associate degree. So that what we really are attempting to do is to allow for post-secondary

as we presently know it to be part of the education to which people in the State of this new State would have opportunity to get minimally an associate degree or two years of college. We think that that is possible and we think that with a Board that remains relevant and current with technology and information, we think that there will be increased technological skills given in the schools and that the other aspect will be for a higher degree. So the 18 is not the kind of compulsory that penalizes the youngster because they are bright and finish the first 12 grades at age 16.

MS. JOHNSON: I hope you realize the extra financial burden this will place on education.

MS. SIMMONS: That's in the first sentence. That word you will find preferable to the thought you are now discussing.

MS. JOHNSON: Also you are saying that it would no longer be a choice you made; it would be compulsory.

MS. SIMMONS: That's what 16 is now; 16 is a compulsory obligatory age.

MS. HARRIS: Delegate Charles Mason.

MS. LOCKRIDGE: I want to make it clear, if you don't mind, Delegate Mason -- to make it clear that if a student does complete all requirements, it doesn't mean they

have to remain, that they are penalized and have to remain in school until they are 18.

And you know what happens, and we have to be realistic about it -- we have a push-out system that exists right now where students are pushed out once they reach 16, ready or not to deal with society or the work world out here. And we had a lengthy debate on that, hoping that we would be able to eliminate that push-out system that does exist in fact.

Delegate Mason.

MR. MASON: On page 3, items E and F, I think E is excellent, but I think F is inconsistent with E. If the property is titled in the Board of Education, it sounds ridiculous to require the Board to get consent of the Legislature to lease anything. If it's their property, they can lease it without anybody's consent. And that should be stricken.

When the right time comes -- maybe the committee will strike it before I present it. I am not making a motion; it isn't the right time to, but the committee might want to strike it.

Now there is some precedent for states having to get Legislative authority to sell anything, even though normally if it belongs to them they could either sell or lease. But

I feel much more strongly about the lease. In fact, there is a legislation in process right now that would give the Board of Education the power to lease but not to sell and it would be ridiculous to go backwards and say that legislative approval is necessary.

MS. SIMMONS: I respect what you are saying, Delegate Mason. You are talking about legislation that happens to be in the hopper and we understand the position you have. But, see, this body, appointed body, is drafting the constitution as it should be based on our best estimate in terms of what it ought to be, a perfect government's document for a state, without regard to what is or what has been, what ought to be or what is pending, and I think that that ought to be clear.

MR. MASON: I'm saying does the committee see an inconsistency in saying it's titled in the Board and then requiring legislative consent to lease. I think this is an inconsistency.

Will the committee make that decision or shall I offer an amendment at the proper time?

MS. LOCKRIDGE: We will caucus, Delegate Mason, and we will get back to you.

MS. HARRIS: Delegate Brian Moore.

MR. BRIAN MOORE: Yes. This idea of handicap may be

sure that appropriate services and education is provided to the handicapped. I don't want to seem naive but --

MS. LOCKRIDGE: What are you talking about?

MR. BRIAN MOORE: I'm talking about Section 1, Part B, on the first page. So what happens if the Board of Education and the educational system is limited in funds, is that considered a luxury or is that considered a basic right?

MS. SIMMONS: That's a basic right.

MR. BRIAN MOORE: The analogy would be the buses across the country now or ten years ago -- people were installing these automatic ramps for wheelchair victims to use. Now it's deemed very costly and courts are allowing bus systems to eliminate that from their service because of the impracticality of it.

MS. SIMMONS: Through the chair to Delegate Moore, I believe that your anology and your date is not quite accurate. There is still that facility available; it's just not on every bus. But the system must possess in order to be -- they have to have knowledge of the handicapped. And I think that it ought to be clear that this committee would not want to regress with regard to education. We were the forerunners of acknowledgement and respectfulness that education was a right to the capacity of each child without regard to

handicapped conditions. And we would not want to do less because ours was the forerunner to 94-142. The rest of the country came later, behind us, in terms of this concept. So we certainly wouldn't think of drafting something that would be retrogressive to what we were the leader of.

MS. HARRIS: Delegate Hilda Mason.

MS. HILDA MASON: We can't say that every person has a right to publicly supported education and then say except those who are handicapped. We can't do that.

Thank you.

MS. LOCKRIDGE: Delegate Simmons spoke to Public Law 94-142. If you would direct your attention to page 4 and 5 of our written report, I think you will get more clarification on that.

Are there any more questions?

MS. HILDA MASON: Maybe also refer him to Peter Mills versus Board of Education and the Waddy decree.

MS. LOCKRIDGE: Yes.

Delegate Street.

MS. STREET: I just have a point under primary and secondary education. The age span -- and I thought it was most interesting -- between the ages of 6 and 18. I want to commend the committee for being that strong in broadening that

scope, that age break. I wish you could bring it down even lower, but I understand --

MS. LOCKRIDGE: Could I hear from Delegate Rothschild and then we will hear from Delegate Jerry Moore and then from you again, Ms. Mason, and Delegate Talmadge Moore.

Yes, Delegate Rothschild.

MR. ROTHSCHILD: Yes. The committee did a very thorough job on designing this article. I have one concern and I wonder if this concern occurred to the committee. It seems that the system of education designed by the committee, that the committee is locking in through the constitution, is one that is developed through the history of the city and has been very important to the history of the city.

Nevertheless, if we are to have the option to try other systems of education, such as through the voucher system, using both public and private schools and things of that nature, we are locking ourselves into a very specific way of providing education which I think is important.

But what I am asking the committee is what happens if we want to try other systems, if we want to experiment with other things such as the voucher system that would allow for some type of public and private meshing together? We're excluded -- I mean we locked ourselves into something.

MS. LOCKRIDGE: Did you want to respond to that, Delegate Kameny?

MR. KAMENY: If you will read the committee report on the section, you will find that was taken by the committee to reflect the spirit of the eight to one vote, which is hardly a marginal vote in the initiative held last November. We took that spirit as being one instance in the whole writing of this constitution where there was a clear and current and recent and definitive -- a public mandate that we could have --

MS. HARRIS: Delegate Kameny, you are talking too loud into the microphone.

MR. KAMENY: The articles would have to be -- the sections would have to be written much more weakly and the vote come out differently. It was intentionally written firmly and because of the way the vote went, we feel we are on extremely strong ground in that respect.

MR. ROTHSCHILD: In regards to that, that initiative was on a specific type of credit. But what I am suggesting is not any particular system but a system other than the one we have now or just a tax credit, a voucher system or whatever. If we adopt this article, we will not have that option to experiment with any kind of other system. We are

locking ourselves in so strongly.

MR. KAMENY: That was the intention of the committee. It's certain my intention as one committee member; it's my interpretation. They can speak for themselves, of course, but I believe that what I have just said and what that says and in fact what you have said was very much what the whole committee clearly intended.

MR. ROTHSCHILD: Thank you.

MS. HARRIS: Delegate Moore.

MR. JERRY MOORE: I rise to a point of information. Are we discussing a particular article in the report or are we at liberty to ask questions?

MS. LOCKRIDGE: You are at liberty to ask questions about any section in the article.

MR. JERRY MOORE: Thank you, Madame Chairman.

Then may I refer you to -- I have lost my place; just a moment. I am looking for the section where the religious institutions are discussed. On page 4 of 7 item J, I cite Section J. I also wish to deal with line 18, "denominational or religious school may apply a religious test for employment as a teacher, but not for other positions". Do you interpret the principal as teachers or President as a teacher?

MR. KAMENY: In the drafting of this, it was the

intent as I interpret it -- I actually drafted the language although the committee discussed it at considerable length, as we did with all of this article -- was to those people who will be in the classroom teaching and that was at least what was conceived of in my view by that language as distinguished -- we thought of it largely in terms of other personnel in the school, like the janitors and anybody else, and purely administrative people and office people, clerical people as distinguished from people who are in the classroom doing the teaching.

MR. JERRY MOORE: Delegate Kameny, I don't have any problems with that part of it. It is with the leadership of the school that I have a problem, the principal or the President of that institution. And I think this needs some clarification because in my opinion if the denomination of the schools wishes to employ a person suitable to them for religious instruction, they have the right to apply the test of that leadership.

I would like to ask, Madame Chair, the committee to give some consideration to this point.

Thank you very kindly.

MS.LOCKRIDGE: Delegate Kameny could respond to that. And the committee is going to talk about it. In listening to you, I have already given some consideration to it, because

I can see the principal as a teacher, not only a teacher of students, but teacher of teachers. So we will talk about that and get back to you on it.

I have recognized -- Ms. Simmons, did you want to respond to that also?

MS. SIMMONS: No, not on that issue.

MS. LOCKRIDGE: Okay. I had recognized Delegate Moore and Delegate Mason, Madame Chair.

MR. TALMADGE MOORE: Yes, Madame Chair, Talmadge Moore from Ward 5. Concerning the committee addressing the delegate about elementary and secondary and post secondary --

MS. LOCKRIDGE: You weren't here when I read the article; section 2, page 2. I asked that everyone at the end of line 9 cross out the word "up" and the beginning of line 10 cross out "to age 18", and for that specific reason so we would not -- so that adult education would be all inclusive in that.

You will notice that it reads "for all residents".

MR. TALMADGE MOORE: Can I add one other question: On page 2, line 6, paragraph A, and I was wondering whether you wanted to include this committee considering including a statement in reference to free instruction. Nowhere in this article we say that the children will get free instruction.

MS. LOCKRIDGE: On line 8 it says "free public primary and secondary schools".

MR. TALMADGE MOORE: I was speaking about the instructions of the teachers. Also in that same context I was wondering whether the State shall establish -- you have on line 8 again -- "the State shall provide for the establishment, financing and control". I was wondering what the State shall establish and maintain free public schools for instructions for all persons in the State within the age 21 years as prescribed by law. I'm really concerned about that age because having taught and also a principal in a school for a number of years, we have quite a number of young men who were 19 in fact and in the career development center quite a number of students who have graduated at 19 years old, and I just wanted to know if that free public education would be denied them. So I would just recommend that we --

MS. LOCKRIDGE: Yes. I think maybe you misunderstood my response to you. When I asked that we scratch out the word "up" at the end of line 9 and scratch out the words "to age 18" at the beginning of line 10, that was to deal with all residents, regardless of their age.

MR. LOVE: We just talked about the idea of education up to the age 18 and we decided it should be up to the School

Board rather than have a mandate. So there is nothing here that we are not allowing the School Board system to set up technical schools for people after secondary school and we could charge no tuition or very low tuition as we do in UDC but we decided not to mandate under the constitutional arrangement.

MR. KAMENY: And it will permit adult education of a secondary level; that's all included and especially with respect to the elimination of the --

MS. LOCKRIDGE: And, Delegate Moore, I don't think you were here when that same issue came up and Delegate Simmons responded to it. She is going to speak to that again so that you may have benefit of it.

MS. SIMMONS: Delegate Moore, I know that you have long years of experience. We are talking about education that can be free and public through to an associate degree, to secondary and what now is commonly viewed as post-secondary. That was quite conscious. We are not penalizing youngsters and saying if a kid finishes all of the requirements for a high school diploma at age 16 that they still must go to school. We are saying that there are some options that will be made available to them both in terms of technical training as well as in post-secondary -- you know, basic college kinds

of things so that it is possible to make 14 grades free and public to our students. This is actually an expansion of your adult education concept, and what it does is it makes it more real and tailors it on a broader basis than what now has been linked only to the federal bucks that ended up being matched -- and matched poorly I might say in our own jurisdiction.

MS. HARRIS: Thank you, Delegate Simmons.

The time that was allocated for questions is now over. The convention will now come to order. We will have a moment of silent prayer.

(Whereupon, a pause was taken for silent prayer.)

MS. HARRIS: Will the Convention Secretary please call the roll.

(Whereupon, Secretary Cooper called the roll as follows:)

Delegate Baldwin, no response; Delegate Barnes, present; Delegate Blount, present; Delegate Bruning, here; Delegate Cassell, no response; Delegate Clark, no response; Delegate Coates, no response; Delegate Cooper, present; Delegate Corn, no response; Delegate Croft, no response; Delegate Eichhorn, no response; Delegate Feely, present; Delegate Freeman, here; Delegate Garner, no response; Delegate Graham, present;

Delegate Harris, here; Delegate Hommes, here; Delegate Jackson, present; Delegate Johnson, present; Delegate Jones, present; Delegate Jordan, no response; Delegate Kameny, here; Delegate Lockridge, here; Delegate Long, no response; Delegate Love, here; Delegate Maguire, no response; Delegate Marcus, no response; Delegate Charles Mason, here; Delegate Hilda Mason, present; Delegate Brian Moore, present; Delegate Jerry Moore, present; Delegate Talmadge Moore, present; Delegate Nihikian, no response; Delegate Nixon, here; Delegate Oulahan, no response; Delegate Paramore, no response; Delegate Robinson, here; Delegate Rothschild, here; Delegate Schrag, here; Delegate Shelton, no response; Delegate Simmons, present; Delegate Street, here; Delegate Terrell, no response; Delegate Thomas, here; Delegate Warren, no response; Delegate Garner, here.

MR. COOPER: Madame Chair, 28 delegates answering the roll.

MS. HARRIS: Thank you, Delegate Cooper.

Do you want to speak on the treasury, Madame? Okay. The convention is not called to order but our Treasurer would like to have one minute to address the body, after which we will move directly into the articles on education.

Delegate Jones.

MS. JONES: Good evening. I would like to remind

delegates and especially chairs of committees that if you have had your article completed, would you please release your secretary? We will have secretaries enough to do the second typing for Style and Drafting and those other kinds of things that we will have, but we are releasing some of the secretaries because they are no longer needed to put their articles together. So please do that. We need to stretch our money as far as it will go, even farther than that. But please release the secretaries. Thank you.

MS. HARRIS: Now I would appreciate if you would address those specifically to Delegate Jones.

MS. JONES: The process for releasing them is just telling Mrs. Ellington that your article has been completed and turned in; that's all, and that you no longer need that secretary. All right?

MS. HARRIS: Thank you.

We will now move with the article on education. Will Delegate Lockridge begin with Section 1 and you can entertain a motion to adopt Section 1A.

MS. LOCKRIDGE: Madame Chair, I would like to move the adoption of Section 1A.

(Whereupon, the motion was seconded.)

MS. HARRIS: And it has been moved and properly seconded

that we adopt Section 1A. The floor is now open for debate.

MS. SIMMONS: I move the previous question.

MS. HARRIS: No, there must be a debate. Is there a minority report for Section 1A, Delegate Lockridge?

MS. LOCKRIDGE: I have not received any, Madame Chair.

MS. HARRIS: Delegate Mason.

MS. HILDA MASON: I would like to ask if the committee would consider changing the word "citizenry" to "population" because some of the people may not be citizens who are involved in the educational system?

MS. HARRIS: Does anyone want to address that?

MS. LOCKRIDGE: Yes, Madame Chair. We have had lengthy debates, Delegate Mason, by using the word "citizenry" or "population" and Delegate Feely will let you know about our deliberations on that.

MS. FEELY: We specifically, finally chose the term "citizenry" over "population" because we had some concerns about budget problems if we were trying to provide education to meet the specific need of every single solitary individual who came into the state. We did debate this at length and finally decided that we should deal with "citizenry". We recognized the fact that our population is highly transient,

but the final point was that if we ended up having it totally wide open for everybody regardless of whether or not the person was a citizen, we would end up with a budget situation that we thought we could not handle.

MS. HILDA MASON: Does that mean that students who are not citizens would not be able to attend public schools?

MS. SIMMONS: Delegate Mason, your point is indeed where we have taken care of that and I think that maybe that answers your concern on A, because we are talking about B. We are saying "all residents regardless of" and we include race, sex, religion, color, national origin and other individual characteristics. As a matter of fact, the one item that I was as part of the legislative history without the need for putting in the word "citizenship" is the fact that we want to make sure that when we say "all residents" that there will not be discrimination against undocumented workers' children and say they may not be citizens, but their children, based on this constitution, have a right as residents to every educational opportunity of every other child.

MR. KAMENY: I point out Section 2A addresses, I think, your concern. "The State shall provide for the establishment, financing and control of a uniform, high wuality, statewide system of free public primary and secondary schools including specialized schools for all residents."

I believe, if I understand your concern, the fact that it addresses it adequately.

MS. LOCKRIDGE: Did you have some concern as to how the word "residents" will be defined? We have other committees that will deal with that.

MS. HILDA MASON: I'm not a lawyer. But my concern is that if somebody went to court, how would the judge rule if in your first section you use the word "citizenry" and in your next section you're using a word that talks about "residents" or "population" or something else. I don't know how the judge would rule on that. There is an inconsistency.

MS. LOCKRIDGE: Delegate Charles Mason.

MR. CHARLES MASON: I would point out that whatever education is offered to one resident who is a citizen has to be offered to one who is not a citizen. There are numerous court decisions. In many court decisions the equal protection clause applies to persons not just to citizens.

MS. HARRIS: Excuse me, Delegate Mason, I think there is too much mumbling going on. That is why the committee cannot hear you. Would the delegates please take their seat?

MR. CHARLES MASON: As far as providing services to students, they are attempting no distinction between students who are citizens and those who are not. There are numerable

court decisions holding that. And that is correctly provided in Section 2. It just is a little inconsistent in Section 1 to use the term "citizenry" rather than "population". I think that to make it clear all the way through that citizenship doesn't matter. This should be changed in line 4 on the first page.

MR. KAMENY: I would like to say that I think in this particular instance and with all due respect we have something of a tempest in a teapot. This first phrase is a preamble kind of section. It sets out a philosophy of education. The word "citizenry" is being used in a kind of a general sense to mean people who are there. When it comes down to the essentials of what is being provided by whom, for whom, the words are used and I would suggest that at this point that nothing is served by pursuing this change at this place.

MS. HILDA MASON: Just to say one thing: The preamble lays the base.

MS. HARRIS: Delegate Johnson.

DELEGATE JOHNSON: Based upon the preceding discussion, I would move that we change the word "citizenry" in line 4 to "population".

(Whereupon, the motion was seconded.)

MS. HARRIS: It has been moved and properly seconded that we change "citizenry" to "population.".

Discussion? Delegate Jones.

MS. JONES: I would like to speak against that. I see no reason to change "diversified citizenry" because that is what is paying for this whole thing; that's one thing. And secondly those children become part of that diversified citizenry and there is no reason to change that. So I can't imagine why we would be changing that.

You know, you're not going to say you can't come to school because you're not a citizen. I would be the first one out there saying you're nuts. So I'm saying that I see no reason -- you know, and we recognize our distinct and unique heritage of our diversified citizenry. I see no reason to change it.

MS. HARRIS: Delegate Jackson.

MR. JACKSON: Yes, ma'am, I would like to speak to that for the following reasons.

First of all, the word "citizenry", while it does say its own, we have already established certain things for citizenship for Washington, especially in the sense of voting. Voting is always the main thing. Are you eligible for that? If a child came from Guatemala or something and the parents lived in D.C. for only ten months and it requires a longer period than that for them to become a citizen of the state, so

to speak, then one could say that the child is not eligible for education.

If we also use the term "population", then I think it will allow us for us to have no doubt that all of the people of the state should be taught in whatever is their native language until they have the ability to speak the language of the particular state, which says that multi-language education or something gets built in. For that reason, I think it should be there. I don't think it does any harm, but it does give diversity to this. "Citizenry" does not represent diversity.

MS. LOCKRIDGE: Madame Chair, if I might, I think the committee by consensus has agreed that we will accept "population".

Is there anyone who would like to argue --

MS. HARRIS: Well, if you accept it, then I don't know if we need to argue it. We have one for and one against that might make a small -- Delegate Graham.

MS. GRAHAM: May I say one thing? I think when we are talking about people that vote, we are talking about now children who are between 6 and 18 years of age, aren't we? Are we talking about that age?

MS. HARRIS: To vote 18.

MS. GRAHAM: Yes, but we are talking about ages 6 to 18. Well, if that is what we are talking about, I can't see why we wouldn't leave it just as the committee has it and go right ahead because, as we have defined it, we are not listing our students as citizens of voting age until they are 18, as I see it.

MS. HARRIS: Delegate Simmons.

MS. SIMMONS: What I want to speak to is the fact that maybe behind this discussion we should insert the word "citizenship" because I think while Delegate Jones speaks to the point that children are automatically, because they are residents, afforded education, there indeed can be a point in time when that may not be true. Undocumented workers' children are discriminated against. That is an historical fact. We know it's true in Texas; we know it's true in Arizona. If we aren't careful, we may find it true here in the District of Columbia.

All I'm saying is that we need to be sure that young children, based on the residency and residency alone, guarantees them an educational opportunity without regard to their parents' citizenship. And it is for this reason that I spoke to this point a few minutes ago, but I thought maybe if we would wait until B and here insert it or make sure that that's the intent

of the committee.

MS. HARRIS: Delegate Simmons, in reference to 1A, are you for leaving it as it is or are you against?

MS. SIMMONS: I don't have a problem using the word "population" as long as residency guarantees the opportunity.

MS. HARRIS: You're saying two things. I'm confused.

MS. SIMMONS: I'm saying yes, "population" is a more generic term.

MS. HARRIS: Delegate Thomas.

MR. THOMAS: Madame Chair, I move the question.

(Whereupon, the motion was seconded.)

MS. HARRIS: We have had two for and two against and that is in order.

It has been moved and seconded and we have entertained two for and two against. All in favor of closing debate, signify by saying aye.

(A chorus of "ayes".)

MS. HARRIS: All opposed.

(A chorus of "nays".)

MS. HARRIS: The motion is now on the floor. The motion states -- the motion by Delegate Johnson in 1A is for line 4 to change the word "citizenry" to "population". All in

favor of changing "citizenry" to "population", please raise your hands.

(Show of hands.)

MR. COOPER: Twenty-five.

MS. HARRIS: All opposed.

(Show of hands.)

MR. COOPER: Three.

MS. HARRIS: Abstentions.

(Show of hands.)

MR. COOPER: One.

MS. HARRIS: It carries. So in line 4 you change "citizenry" to "population".

Delegate Lockridge.

MS. LOCKRIDGE: Madame Chair, I move the adoption of Section 1A as amended.

(Whereupon, the motion was seconded.)

MS. HARRIS: It has been moved and properly seconded that 1A be adopted. All in favor?

(A chorus of "ayes".)

MS. HARRIS: All opposed.

(A chorus of "nays".)

MS. HARRIS: It so carries.

Delegate Lockridge, will you move Section 1B. We

have three amendments here at the desk.

MS. LOCKRIDGE: Madame Chair, I move the adoption of Section 1B.

(Whereupon, the motion was seconded.)

MS. HARRIS: It has been moved and properly seconded that we discuss Section 1B.

Delegate Talmadge Moore, Delegate Schrag.

MR. TALMADGE MOORE: On Section 1, paragraph B, line 14 after the word "characteristics" I would move that "and may be sued for default of this guarantee" be deleted. And my rationale for this motion is that I don't think we need to put in the constitution language of this nature. I think we are challenging ourselves to potential litigation. So I would like to see a period after "characteristics".

(Whereupon, the motion was seconded.)

MS. HARRIS: It has been moved and properly seconded that on line 14 a period goes after "characteristics" and delete the rest of the sentence that is on line 14 and 15.

Discussion.

MS. LOCKRIDGE: Yes. I would like to defer to Delegate Freeman please, Madame Chair.

MS. FREEMAN: The reason why we added this section is it doesn't do a whole lot of good to have constitutional

rights unless you can enforce them. And there are two ways in which people are discriminated against. It happens to be provided starting in line 15, to protect against individuals who discriminate against persons on the basis of the characteristics we understood in this section, but also the state discriminates against a person. So we want to provide for protection against state policies which may result in discrimination against an individual on the basis of race, sex, religion and color, national origin, handicapping condition and other characteristics. Without that, unless we have not adopted this section in the Bill of Rights, it's possible that a state could be protected against lawsuits. And so we want to make sure the state will not be protected against lawsuits on this basis.

MS. HARRIS: Delegate Schrag was next.

MR. SCHRAG: I'm not speaking to the Moore amendment. I have a different issue to raise.

MS. STREET: Point of information. You spoke to it, I suppose, Delegate Freeman. Does not the Public Law 42-142 and also the Waddy decree supersede this? That takes care of it. Why do we need to repeat that here?

MS. FREEMAN: I think the main thing though that we are talking about is the constitutional protection here in this

section. And for that reason we wanted to have the constitutional right to sue. You really don't have the protection unless you enforce it. But I also want Delegate Simmons to answer that.

MS. SIMMONS: I think, Delegate Street, when you refer to Public Law 94-142, you are talking about just that, a law, legislation. We are talking about a constitutional condition prevailing for the citizenry for this jurisdiction without regard to what may be in addition. And, as you know, 94-142 is being dilluted and diminished and deleted right now because they are refusing to appropriate the funds to make it live.

MR. KAMENY: The committee felt also as indicated in the report that whatever one may think of other forms of discrimination -- I don't recommend any of them -- that discriminating against a school student, a school child, at those stages when the discrimination can be irreparable was sufficiently heinous. So we wanted to have a strong prohibition strongly enforced. It was a clear philosophy there on the part of the committee. And that was why we made it in both provisions the language under discussion here and the next sentence to ensure that that was not taken away -- that such abuses did not occur.

MS. HARRIS: Is there anyone who would like to speak

for the motion?

Delegate Garner.

MS. GARNER: I speak in favor of the motion because I do not feel there is any substantive disagreement between the committee's intent and I know of nothing in any other section of this constitution where we thought it was necessary to say that you had the authority to sue to enforce that constitution. That is basically understood. It's the law of the land and if it's being violated, you have the right to go to court.

The question is whether this is superfluous and redundant and I believe it is and Delegate Moore's language will solve that sort of language problem.

MS. HARRIS: Delegate Bruning.

MR. BRUNING: I call the previous question.

(Whereupon, the motion was seconded.)

MS. HARRIS: It has been moved and seconded that we cut debate on this. All those in favor, signify by saying aye.

(A chorus of "ayes".)

MS. HARRIS: All opposed.

(No response.)

MS. HARRIS: The motion is now before us. The motion

is to delete -- put a period after "characteristics" on line 14 and delete the rest of the sentence on line 14 and 15. All in favor, please raise your hands.

(Show of hands.)

MR. COOPER: Seven.

MS. HARRIS: All opposed.

(Show of hands.)

MR. COOPER: Nineteen.

MS. HARRIS: Abstentions.

(Show of hands.)

MR. COOPER: Three.

MS. HARRIS: The motion loses.

We go back to Section 1B, Delegate Schrag.

MR. SCHRAG: First, I have an amendment that I have discussed with Delegate Lockridge earlier today to add after the word "characteristics" on line 14 "that are not related to ability to learn, comma".

(Whereupon, the motion was seconded.)

MR. SCHRAG: The purpose of this amendment is that without it it would seem that the university of the State of Columbia, an educational institution covered by this paragraph, would not be able to have any admissions tests because it would not be able to keep from the school people who have the other

individual characteristic of not being able to make the grade. So I think the point of what the committee was trying to do was to say that irrelevant individual characteristics such as race and sex should not be considered in access to equal educational opportunity but that relevant individual characteristics, that is inability to read, for example, should be permitted as a basis for excluding people from higher education and, therefore, it's a protective amendment.

MS. HARRIS: May I ask a question on that? Do I understand you to say that this would ensure that an institution like the University of the District of Columbia would have admissions tests?

MR. SCHRAG: No. Without the amendment the university of the state would be prohibited from having any admissions tests. This amendment permits the state to make the choice as to whether they want to have admissions or they don't want to have admissions tests. But the absence of the amendment would prohibit them from having any qualifications whatsoever for admission to higher education because the individual characteristics of being unable to count or read or whatever could not be taken into account in giving people the opportunity to be admitted to higher education.

MS. HARRIS: Delegate Simmons, do you want to reply

to that first?

MS. SIMMONS: I rise to speak against the amendment. Out of the many constitutions that we read, I have never yet read anywhere about anybody in anyone's constitution with reference to someone's ability -- relating to people's ability to learn. And I think that the one thing that I would not support making unique to this constitution is an implied suggestion that based on the varied admissity of this community that we therefore must put such a factor into the constitution. I resent what that implies and I am perfectly aware that every university, all state institutions, set up through their administrative arm called their Board of Governors, their Board of Regents or what have you the policy which shall prevail and that different institutions will engage in what shall and will be the admissions practice. And it does not need to be written in a constitution with regard to that matter because the very next sentence says "The Legislature shall provide penalties for any individual who violates this guarantee" and that could be indeed our own university if they should violate it.

I have grave problems with the implication of the words which Delegate Schrag has inserted here and I appeal to the Delegates to vote against, vote this amendment down.

MS. HARRIS: Thank you, Delegate Simmons.

Delegate Love.

MS. LOVE: I'm sure, as Delegate Schrag is aware of, there are several psychologists that are claiming that people of the black race are not able to learn the same things that people of the white race are able to learn. By putting this phrase in "not related to the ability to learn", the courts are going to have to debate what is and what is not related to the ability to learn. There may come a time, as there has come in the past, when people have claimed certain races and certain ethnic groups do not have the ability to learn certain things. I think this is a very dangerous phrase and I would move to vote it down.

MS. HARRIS: Delegate Robinson.

MR. ROBINSON: I stand to speak against the insertion of the phrase "that are not related to the ability to learn". I would like to first say that I am bothered that my fellow delegate from Ward 3 is now inserting into the constitution legislation and it was he who was quoted in today's Post as being against such inclusion.

Also I would like to join that bandwagon of speakers who are bitterly against the inclusion of this phrase based on psychological assertions that have been made in the past.

And so I ask my fellow delegates to please vote down the inclusion of this phrase.

MS. HARRIS: Thank you, Delegate Robinson.

I know there are several hands up and I know this is a serious issue for some people, but I don't think there is a need for six people to talk against it. Let me first ask -- I will recognize you last, Delegate Schrag -- is there anyone with their hands up who would like to speak for it?

I recognize Delegate Mason and Delegate Schrag and then we will vote.

MR. CHARLES MASON: I just have a question. I'm not really speaking for it. I don't want to speak for it or against it. I want to ask a question of the committee.

MS. HARRIS: Okay. Point of information, I guess, you want.

MR. CHARLES MASON: Yes, point of information.

Assume we vote to adopt this section without the Schrag amendment, would this language prevent the university from establishing standards for admission at any level, for instance, to admit for the under-graduate school you have to be a high school graduate, to admit to the graduate school you have to have the bachelor's degree, et cetera, the normal standards or standards which say maybe B average or whatnot,

does this prevent the Board of Trustees of the university from setting any standards whatever for admission?

MR. LOVE: In answer to Delegate Mason's proposal, the beginning of this phrase is "The State shall guarantee equality of educational opportunity". So, for example, if you set up a special high school that required some sort of test to get in like a music school, all we say is everybody has an opportunity to apply to the music school to try and get in. Clearly, the school itself would not have to take somebody in who was tone deaf. So when we say educational opportunity, it means that no person shall be denied the right to have the opportunity.

Does that answer your question?

MR. CHARLES MASON: Yes.

MS. HARRIS: Thank you.

We will hear from Delegate Schrag and then we will move to the question.

MR. SCHRAG: Madame President, I request the permission of the body to withdraw this amendment but to engage in a dialogue with the committee as to whether we can correct what I see is a technical problem in the phrase "other individual characteristics" which I was trying to correct with this amendment. Maybe we could correct it some other way. May I

have that permission of the body by unanimous consent -- withdraw the amendment?

MS. HARRIS: Yes.

MR. SCHRAG: I wish to withdraw my motion.

MS. HARRIS: Yes.

MR. SCHRAG: Now let's get to the problem that I was trying to address. The problem is the phrase "other individual characteristics". And that's an unusual phrase. I don't think you find that phrase in other constitutions. I understand that the committee put it in there because it was considered by the committee -- the question was considered by the committee of putting the question of sexual orientation in this section. And instead of putting in the phrase "sexual orientation", the committee put in a euphemism for that phrase "other individual characteristics". Okay, if they want to do that, that's fine. But they put in a broader term than they needed to put in.

The word "individual characteristics" covers all individual characteristics. It covers all individual abilities. For example, musical talent, to take Delegate Love's example, and it would seem to say if we have this phrase in there that, if an individual has no musical ability and the state has a state music school, the state must admit the student to the

state musical school despite his lack of musical ability, which is an individual characteristic.

I would like to be relieved on that point because musical talent seems to be an individual characteristic.

MS. HARRIS: Delegate Schrag, I think that members of the committee would like to address that, but that "individual characteristics" is on the same line as "handicapping condition" and it should refer to that.

MR. SCHRAG: I understand from the report, Delegate Harris, that it refers to sexual orientation and a couple of other things that are not handicaps.

MS. HARRIS: Does anybody want to speak to that from the committee?

MR. KAMENY: Among other characteristics and characteristics which have provided a basis for discrimination on a number of occasions. Delegate Love very clearly pointed out that this deals with equality of educational opportunity, which apparently has passed you by and which was very much an adequate response to what you said.

Now in that sense I think you have to take into account in any time when you have a listing of characteristics some kind of way, unless you have an omniscient -- an ability to omniscience to deal with everything that is going to come

along, some way of dealing with other items that are not on the laundry list. You know that better than I since you are lawyer, Delegate Schrag. And that was the intention of the phrase here.

Clearly, there are other forms of potential discrimination beyond the ones listed there and beyond our examples and it was absolutely necessary to include them. All students will have an opportunity of equal education, an equal opportunity for that education.

MS. HARRIS: Is there anyone else on the committee who would like to speak to that?

We can go on asking questions and answering for the next 15 minutes. If it is a serious concern or else let us move to the next point.

MR. SCHRAG: Madame Chair, I would like to ask the committee whether it would object to the insertion to the word "irrelevant" before the word "individual" because its list is a list of irrelevant individual characteristics, irrelevant to education.

MR. KAMENY: When you get into an area of discrimination, Delegate Schrag, a word like that opens up the opportunity to anybody who wants to discriminate. If the word used is "reasonable", then they claim it's a characteristic that is

unreasonable; for unreasonable it's reasonable. If it's relevant, they claim irrelevancy; if it's irrelevant, they claim relevancy. Anything that you devise in that way, human ingenuity is endless. Whatever you devise, human ingenuity will get around. I suggest you not go that route because it will not cure what you perceive as an ill.

MS. HARRIS: Thank you, Delegate Kameny.

Delegate Robinson.

MR. ROBINSON: Madame President, I would like to ask the committee if in light of the legal opinion as expressed by Delegate Schrag, or the implied legal problems with the phrase, would the committee consider deletion of the phrase to an anticipation --

(A chorus of "nays".)

MR. ROBINSON: Okay. Thank you.

MS. HARRIS: Are there any questions? I think we should move on. Delegate Lockridge, is there a motion to adopt 1B?

MR. ROBINSON: Madame Chair, I gave to the amendments' person --

MS. HARRIS: We have it here. I asked you if there was any more --

MR. ROBINSON: Yes. I would like to amend line 13

immediately after the word "origin". I should like to remove the words "handicapping condition" and replace it with "conditions of disability".

My reason for so doing is that the vast majority of disabled people today consider the word "handicap" very, very offensive. Also the word "disability" is in fact a 21st century word, if we can only refer back to last year being the international year of the disabled persons. And I would ask this body to consider the insult that would be inherent in including in our constitution an offensive term to that segment of our population that the words "handicapped" would imply.

MS. HARRIS: Is there a second to that motion?

(Whereupon, the motion was seconded.)

MS. HARRIS: It has been moved and properly seconded that we replace "handicapping condition" with "condition of disability".

Questions?

MS. LOCKRIDGE: Madame Chair, by consensus this committee agrees to accept that change.

MS. HARRIS: Okay. The committee has agreed to accept the change and using "conditions of disability".

MS. SIMMONS: A question, Madame Chair. My question to the committee is do you feel a need for us to include the

word "citizenship" in the litany on line 13 for the simple reasons that I have earlier spoken to?

MR. KAMENY: No. We have "residents".

MS. SIMMONS: I know there is "residents" but I'm still talking about what I know as a history of experience has occurred to young children of undocumented parents.

MS. HARRIS: Delegate Simmons, before we go to that, I think we need to put "conditions of disability" to a vote.

All in favor of replacing "handicapping conditions" with "conditions of disability", signify by raising your hands.

(A show of hands.)

MR. COOPER: Twenty-four.

MS. HARRIS: All opposed.

MR. COOPER: Two.

MS. HARRIS: Abstentions.

MR. COOPER: Three.

MS. HARRIS: The motion carries. In line 13 strike "handicapping conditions" and insert "conditions of disability".

Delegate Simmons, you have the floor now.

MS. SIMMONS: I wish to make sure in line 13, where it says "race, sex, religion, color, national origin" -- I would like to say "citizenship" and I mean citizenship in the very

sense that residency is not a synonym for citizenship.

MS. HARRIS: And how would you insert that?

MS. SIMMONS: I would insert it after "national origin".

(Whereupon, the motion was seconded.)

MS. HARRIS: It has been moved and seconded that after "national origin" on line 13 we insert "citizenship". Discussion?

MS. SIMMONS: I believe that too frequently people believe that the word "residency" and "citizens" are synonyms; they are not. Residency means that you reside at a place and you could have resided there for a minute or a week or for a year. Citizenship is a qualification of having met certain criteria -- the year you were born or you were naturalized -- and these become conditions that make you a citizen. And children, particularly of undocumented workers, have been discriminated against in this country in states and local jurisdictions with regard to education, recreation and health care services. And it is because of that history of experience that I submit that the word "citizenship" in this instance should be included because this is absolutely consistent with what we were doing earlier.

VOICE: I call the question.

MS. HARRIS: The question has been called. All in favor of cutting off debate, signify by saying aye.

(A chorus of "ayes".)

MS. HARRIS: All opposed.

(No response.)

MS. HARRIS: The motion is before us. The motion is on line 13 to insert "citizenship" after "national origin". All in favor, please raise your hands.

(Show of hands.)

MR. COOPER: Twenty-three.

MS. HARRIS: All opposed.

MR. COOPER: Two.

MS. HARRIS: Abstentions.

MR. COOPER: One.

MS. HARRIS: The motion carries.

Delegate Freeman is next and then Delegate Brian Moore.

MS. FREEMAN: I think there are other speakers, Madame Chair.

MS. HARRIS: Brian Moore.

MR. BRIAN MOORE: I have a question of the committee, page 2, line number 1. When it refers to "the Legislature shall provide penalties for any individual who violates this

guarantee", that's basically applicable to principals, right, if they were in a school?

MS. LOCKRIDGE: Who violate, right.

MR. BRIAN MOORE: That's by the action or the vote that they make or -- how would that violate that, I mean by voting for a certain procedure or denying --

MS. LOCKRIDGE: I don't understand what you are saying, Delegate Moore.

MR. BRIAN MOORE: By denying admission of a student for certain reasons? Is that what it means? What kind of action would precipitate --

MR. KAMENY: We would cut off his head.

(Simultaneous discussion.)

MS. SIMMONS: He wants a for instance.

MR. BRIAN MOORE: A for instance, yes.

MS. SIMMONS: A for instance is to ask the child to bring his or her green card over at the Adams School here in the District. That's a for instance. That would be a violation.

MR. KAMENY: You're asking for the penalties. Is that what you are asking for?

MR. BRIAN MOORE: Who would be the one you could sue? It would be the principal or the --

MR. KAMENY: It would depend on the individual facts of the individual case. If it were some school administrator, then it would be against the administrator.

MS. HARRIS: Okay. Delegate Barnes next.

MR. BARNES: I will pass.

MS. HARRIS: Delegate Bruning.

MR. BRUNING: I have a question for the committee. Would the word "individual" also cover something that would be equivalent to the Board of Education, i.e. if there is a conscious policy for violating that, that could cover -- does the word "individual" cover a larger body?

MS. LOCKRIDGE: It certainly could.

MS. HARRIS: Delegate Cooper.

MR. COOPER: The question that Brian Moore brought up about the legislature shall provide penalties, inasmuch as this is a constitutional guarantee, it would seem that would be in the providence of the court to provide penalties.

MR. KAMENY: Delegate Cooper, courts administer laws; courts do not make laws. The court cannot issue a penalty unless the legislature has given them a penalty to meet out. And it always comes back to the legislature and that is why it is done that way here.

MS. HARRIS: If there are no other amendments, can we

move the previous question?

Delegate Jordan.

MR. JORDAN: I would like to make an amendment -- is an amendment only in order if I have written and given it to the amendments' person?

MS. HARRIS: That's right.

(Simultaneous discussion.)

MS. HARRIS: It was stated last week that amendments should be written and put on the table over there.

MS. FREEMAN: I was the one who made that motion and it was not to preclude amendments from the floor for first readings. It was just simpler procedure so that if somebody knew in advance that he or she were making amendments, they should submit to that table, but it is not to preclude people from making amendments from the floor.

MS. HARRIS: Would you please give it to us in writing?

MR. JORDAN: No, I just wanted to make a motion that we strike "and other individual characteristics".

(Whereupon, the motion was seconded.)

MS. HARRIS: It has been moved and seconded by Delegate Jordan that we strike -- the motion is to strike "other individual characteristics". It was properly seconded

by Delegate Barnes. Discussion?

Delegate Bruning.

MR. BRUNING: I would like to speak against that. It is clear from the committee's reports that other characteristics -- we're dealing with questions of things like sexual orientation; we are dealing with political appearance. It would probably --

MS. HARRIS: (Bringing convention to order.) You are disturbing us. The press should not interfere with the delegates' table during the discussion.

Delegate Bruning, will you please continue?

MR. BRUNING: To exclude "and other individual characteristics", we are going to a whole range of characteristics -- that discrimination that would be raised under that would be irrelevant to the ability to perform. We had a case going back a ways in which a woman -- the police denied access to the school because they objected to her physical appearance and her dressy habits; it goes to sexual preference, orientation. It goes to a whole slew of things.

Now if this section is dropped, I think it will be all around this room that they will proceed to add things like marital status, divorce, sexual preference. We will proceed writing the bill of rights' protection on each and

every category that we feel should not be discriminated against. It's clear to me the way the report is, individual characteristics goes to a whole panoply of characteristics we have decided should not be discriminated against and have no right to be discriminated against. I'm afraid if we strike this, we then open up a very, very long debate process.

MS. HARRIS: Thank you, Mr. Bruning.

Delegate Jordan.

MR. JORDAN: I don't see just because you strike out a word prohibits or authorizes discrimination one way or the other. Now there are some here who feel that it should be all-inclusive. I would feel more comfortable if we would clearly define it. As it stands now, it's ambiguous at best and the most we can do is refer to the committee's report.

First, let me suggest one thing: The committee has done a tremendous job, but this was designed to include this -- this section was designed as a catch-all and I don't think it serves that purpose well.

So I don't understand what it means and if we had an opportunity to vote on many of the individual areas or personal -- I mean individual characteristics that this area is supposed to cover, then I personally would have had some problems with some of those individual characteristics and would

have spoken against it.

But in the way in which it is structured, it includes a lot and it still says that others have to be defined. Now that ultimately is going to be done by the court. So I don't want to leave a lot of ambiguous as to the courts -- and by the way to be honest with everyone on this committee, we could have stopped to the word "resident" and we didn't have to go any further. There was no reason to delineate everyone who was being discriminated against. If you say all residents were going to receive an educational opportunity, that's as far as we had to go. So there must be some reason why we went to define this out. And I'm saying as we define it out, you might leave some out; you might include some that some of us -- well, at least personally I might have one. So that's why I have offered this motion.

MS. HARRIS: Delegate Jerry Moore.

MR. JERRY MOORE: Madame Chairperson, delegates: I have been sitting here quietly listening to the discussion and at the same time trying to make up my mind what is meant by "other individual characteristics". And I guess I listed about 100 in my mind. So I came to the conclusion that this is a catch-all phrase.

I have read the report, Dr. Kameny. I sat here and

read every word of this whole thing. But that's why I don't know what it means. So I don't like catch-all phrases in constitutions. They become scapegoats and I don't understand it. And you would have to do a lot of explaining to me to get me to understand what you mean by this and I have already listed personally about 100 characteristics that I could think of and I could go on for a long time to come.

MS. HARRIS: Delegate Street.

MS. STREET: Point of information. I would like legal counsel's opinion on this section.

MS. HARRIS: Can legal counsel comment on "individual characteristics", what that means in the constitution?

COUNSEL THOMAS: Well, I see you are talking about the individuals and other individual characteristics. I prepared a report. I just got this section last night, the article last night. So I have been spending all day -- one of my comments, in fact, of Section 2B is the phrase in line 14 quote --

MS. HARRIS: 1B.

COUNSEL THOMAS: 1B, excuse me -- "and other individual characteristics" is vague particularly when viewed in the context of a guarantee by the state for default of which the state may be sued. So I share the comments that Reverend

Moore obviously had, that the language is too vague, and that if there were some way of defining it, making it more clear, I think it would be advisable.

MS. HARRIS: Delegate Eichhorn and Delegate Love and then we will move to vote.

MS. EICHHORN: I am opposed to a provision -- my preference would be to either, as Delegate Jordan suggested, end the sentence after "residents" or to end the sentence there and go on to say that no resident may be denied equal educational opportunities because of -- which might address the issue of having to provide education for all ages and whatever. And I don't know whether legal counsel could speak to that, whether there is another way to word this, by saying that no one could be denied, where otherwise people are provided except for race or sexual preference.

MS. HARRIS: Would legal counsel like to address that?

COUNSEL THOMAS: That would be more preferable. I would like to hear from the committee on that as to its rationale. I think that the committee's rationale for including that was just in case there is anything else we left out, that if a person is being denied for an individual characteristic, that they should not be denied. And I think this was intended to be

catch-all phrase for anything valid.

MS. EICHHORN: Apparently the concern that was raised was that the way that this reads, it could guarantee educational opportunities for everybody, is that right, regardless of age and so forth?

COUNSEL THOMAS: They are denied by this characteristic.

MS. EICHHORN: If the committee could meet their need by maybe putting a period after "residents" and saying no resident shall be denied an education --

MS. HARRIS: Are you making a substitute motion?

MS. EICHHORN: I would rather have somebody on the committee make it.

MS. HARRIS: Let me give it to Delegate Love whom I recognized a little bit earlier.

MR. LOVE: Fellow delegates, we are talking here about education. We are not talking about jobs; we are not talking about income; we are talking about education. We are talking about education of children. We are talking about the opportunity of education. We are not even guaranteeing, for example, that if you were handicapped and an adult and wanted to go to the university, you wouldn't have to pay for it. We're talking about opportunity -- that the opportunity should be

equal.

Now Reverend Moore says he can think of 100 individual characteristics. I can think of 1,000. How many of those would you want to deny an eight or nine or a ten year old child the right to go to school on the basis of? That is the question.

We are talking about the right of a child to go to school and get an education. And we are saying that that is such an important right that, regardless of what is said in the Bill of Rights, we want to re-emphasize that there is nothing more important than education.

I want the delegates to understand that we can sit here and we can quibble about the language and so forth and so on, but in the end it comes down to the intent. It is the intent of this committee that a child have the opportunity to be educated. Without that opportunity, you are denied a right to participate in almost every facet of this society. So I urge you to vote against all of these motions to limit the right of a school child to go to school and have the opportunity to learn what every other person does.

Thank you.

MS. HARRIS: Is there anyone else who would like to speak for the amendment -- for the motion?

We have three against. Do you want to speak for it? Delegate Garner.

MR. GARNER: I speak in favor of this motion to delete these four words. My reason is very simply that, while I agree with the intent what the committee is trying to do, I believe that their language does not accomplish it. My concern can be best stated as an example -- that this language says if I have a one year old child, you have got to provide that child equal educational opportunity because you may not discriminate on the basis of age. You may not do that, and you just said so.

The language right here says "The State shall guarantee equality of educational opportunity regardless of any individual characteristics". The later sections are about free public education up to the age of 18 and mandatory between the ages of 6 and 18, but a one year old child under this language -- a criteria I think we all agree that the state should not be providing education to a one year old. Is that correct?

But I believe this language provides that requirement and that is the concern, but I wish the committee would listen to the concern from the floor and try to come up with language and solve those problems. Thank you.

MS. HARRIS: Delegate Cooper.

MR. COOPER: I would like to move the previous question.

(Whereupon, the motion was seconded.)

MS. HARRIS: It has been moved and seconded. All in favor of cutting off debate, signify by saying aye.

(A chorus of "ayes".)

MS. HARRIS: All opposed.

(No response.)

MS. HARRIS: The motion is now before us by Delegate Jordan which is to strike "other individual characteristics" on line 14, 1B.

All in favor of striking those four words, please raise your hand.

(Show of hands.)

MR. COOPER: Twenty.

MS. HARRIS: All opposed.

(Show of hands.)

MR. COOPER: Two.

MS. HARRIS: Abstentions.

(Show of hands.)

MR. COOPER: No abstentions.

MS. HARRIS: I just want to make a point here, that

our agenda calls for completing this section tonight and completing the section on Local Government. So I'm going to try to discourage lengthy, lengthy debates, okay, on each section in order to get through with the material here.

Delegate Lockridge.

MS. LOCKRIDGE: Madame Chair, I would like to move the adoption of Section 2A.

(Whereupon, the motion was seconded.)

MS. HARRIS: It has been moved and properly seconded we adopt 2A. Madame Chair, we have two amendments, but for those of you who were not here initially, Delegate Lockridge asked that on line 9 of 2A you put a period after the word "residents" and scratch "up to age 18", which is on line 9 and 10. Please do that.

We have two amendments here. The floor is open for discussion,for amendments. Delegate Barnes.

MR. BARNES: I would like to move my amendment, the one changing the age from 18 to 16.

MS. HARRIS: Is there a second for the motion?

(Whereupon, the motion was seconded.)

MS. HARRIS: It has been moved and seconded by Delegate Barnes that on line 11 we delete age 18 and in its place put age 16. Is there any discussion on the motion?

Delegate Barnes.

MR. BARNES: I heard an argument from one of the committee members on this and the argument was that this was looked upon as a way to encourage 18 year olds, people up to the age of 18 to stay in school. However, it wasn't too long ago in my own life that I was in high school and I have a clear enough memory of the kind of attitudes that young people have at that age. And I think that one thing we have seen in recent years is that young people are beginning to see that they have options. There are many young people who simply -- for whatever reason, whether it's interest, whether it's possibly finding part-time jobs, full-time, whatever -- simply don't want to be in school past the age of 16. I think that a constitution demanding that a person be forced to go to school until 18 years old is infringing upon the right of that teenage person to make a free choice.

Now that doesn't mean that the state can go ahead and have a law saying that people must stay in school until the age of 18. However, I think that this put in the constitution is too strong, causes too many problems. We don't know what kind of system society will have when this statehood is adopted and I am for making this amendment for that reason.

MS. HARRIS: Thank you. Delegate Jackson.

MR. JACKSON: Thank you. I rise to speak against the motion. Delegate Barnes speaks about options for youth. The only options you have in Washington, D.C. is to stay unemployed -- 80 percent unemployment. So, you know, I think it's a problem. Well, let me put it this way: We're lucky we have only one lawyer here, because there is so much misinformation what is said that the essence doesn't come out.

What is said is that the state should provide to youths proper education. The committee is using good sense by taking out the word "18" because no telling what might happen to a young person. His mother may die and he may have to stay in school up until he is 35. So be their right. But we're not going to let this constitute discriminate among youth because someone can't read or understand what this thing says and it says it very, very clearly.

MS. HARRIS: Thank you. Delegate Rothschild and Delegate Blount.

MR. ROTHSCHILD: I would like to speak in favor of putting in age 16 instead of 18. I think we are putting in much too much detail on the educational section anyway, but I think on something like this I would rather go in with 16 and leave it up to the legislature to determine if the age should be raised at a later time. Thank you.

MS. HARRIS: Are you saying --

MR. ROTHSCHILD: I'm in favor of the amendment.

MS. HARRIS: Okay. Delegate Blount.

MR. BLOUNT: I support this amendment as the law stands now from 6 to 16. And I think it's adequate. Also I've read about the reason for financial -- how much, you know, it would cost the state. And also the state may be financially solvent by the time we become a state, but anyway I think that is the reason to be dealt with -- financial.

MS. HARRIS: Delegate Croft.

MR. CROFT: Madame Chair, I yield. There has been enough discussion on it. I have nothing new to add, but I am in opposition to the amendment.

MS. HARRIS: Okay. We have heard three for and two against and I will hear Delegate Nixon and then we will vote.

MR. NIXON: I rise to speak against the amendment by Delegate Barnes. I graduated at age 16 and didn't go to school, could not find a job and I don't think that the labor market is really taking anyone at the age of 16 to work. Some of them don't have the skills and we just throw them into an environment that they can't survive. Sixteen year old kids -- some of them just walk out because they had an opportunity at age 16 just to go and do what they want to do. They can't get

into the service without a high school diploma and to throw out young people out there at age 16, I think it's wrong; I think it's wrong right now. And a lot of people when they campaign say that they are concerned that all young people should be educated. Our young people who walk out at age 16 are not being educated. If we keep them in school until they are 18, I think they will be finished by the time that they will turn 18. If they want to get out early, they are just going to have to work their buts off to get off early.

MS. HARRIS: Delegate Simmons.

MS. SIMMONS: I just have to respond to my good friend and colleague in the field of education, Delegate Blount. There is no cost greater than that for the pathology of our society and to throw kids out 16 with no job is to guarantee them penalization in a penal institution or mental institution and incarceration therein is much more expensive than education. So I can't believe that you are talking about economy and saying that education is more expensive than the alternatives that we are -- that are known to our society.

MS. HARRIS: May I entertain a call for the question.

VOICE: I call the question.

MS. HARRIS: The question has been called. We have entertained four against and three for. I think that's sufficient discussion. Let's move the motion.

The motion is to delete 18 years and insert 16 on line 11. All in favor of that deletion, please raise your hands.

(Show of hands.)

MR. COOPER: Five.

MS. HARRIS: Five. All opposed.

(Show of hands.)

MR. COOPER: Twenty.

MS. HARRIS: Abstentions.

(Show of hands.)

MR. COOPER: Two.

MS. HARRIS: Two abstentions, so the motion loses.

We have two other amendments before us. Delegate Talmadge Moore, do you want to move your amendment?

MR. TALMADGE MOORE: I have one on line 15, I move that in line 15 after the word "schools" adding "as provided by law". I say this because in my previous experience we have received a lot of students entering high school that did not have the right credentials and in some cases almost became lawsuits on naturalization and things of that nature. So I would say that "as provided by law" protects the state.

(Whereupon, the motion was seconded.)

MS. HARRIS: It has been moved and properly seconded

on line 15 after the word "schools", we put a comma, you say, and add "as provided by law"?

MR. TALMADGE MOORE: Right.

MS. HARRIS: Discussion on the motion.

Delegate Brian Moore.

MR. BRIAN MOORE: I do not understand the rationale of the maker of the motion.

MS. HARRIS: He mentioned that some kids do not have proper identification or proper papers and so we should put the statement in "provided by law".

Discussion. Delegate Bruning.

MR. BRUNING: I move the question.

(Whereupon, the motion was seconded.)

MS. HARRIS: All those in favor of cutting debate, signify by saying aye.

(A chorus of "ayes".)

MS. HARRIS: All those opposed.

VOICE: No.

MS. HARRIS: All in favor of the Moore amendment, to put a comma after "schools" and add "as provided by law", raise your hands.

(Show of hands.)

MR. COOPER: Sixteen.